

United States District Court

District of Massachusetts

FILED
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2006 OCT 13 P 3:40

Joseph P. Schmitt, pro se
Plaintiff

- vs -

Jeffrey Smith, et al.,
and

Patrick Mulvey, et al.,
Defendants

U.S. DISTRICT COURT
DISTRICT OF MASS.
Civil Action Nos.

04-10451-RWZ

04-10717-RWZ

Plaintiff's Motion For Court to Revisit
Plaintiff's Motion #72 Motion for Court
Order, dated April 7, 2006

Now comes the pro se plaintiff and hereby moves that the court revisit docket (#72) Motion for Order.

As grounds plaintiff states the following.

1. On 7/20/2006 this court made various ruling in a Memorandum of Decision. Specifically the court would not rule on the above noted motion for Order because the cases were on Appeal.
2. On or about October 10, 2006 plaintiff filed a motion to withdraw said appeals thereby giving this court authority to make a ruling on his motion for Order, docket #72


in C.A. #04-10451 Schmitt v. Smith et al.

3. Plaintiff, at this time respectfully submits a true copy of his April 10, 2006 correspondence to Defts counsel Ms. Poole. As clearly indicated, plaintiff is not requesting the material be returned directly to him but rather a third party which makes said counsel's opposition dated May 10, 2006 meritless. Attached as Exhibit "A"

4. Plaintiff further brings the Court's attention to the fact that counsel for the dept. of correction has insisted that rules and policies of MCI-Cedar Junction do not apply to plaintiff now and since August 2002. See case number 05-10571-RWZ p#29 Motion to Dismiss. However, in this case same counsel for depts reverse their claims!

WHEREFORE, plaintiff respectfully moves that this Court revisit p#72 (Copy attached) and make a ruling on said motion.

Dated: October 10, 2006

Respectfully filed,

Joseph P. Schmitt
30 Administration Road
Bridgewater, MA 02324

Attachments: Exhibit "A"
Certificate of Service
Motion for Court Order

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

COPY *#72*

Joseph P. Schmitt,
Plaintiff,

v.

Civil Action No. 04-10451-RWZ

Civil Action No. 04-10717-RWZ

Jefrey Smith, et al.,
AND
Patrick Mulvey, et al.,

Defendants

[REDACTED]

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

COPY *#72*

Joseph P. Schmitt,
Plaintiff,

v.

Civil Action No. 04-10451-RWZ
Civil Action No. 04-10717-RWZ

Jefrey Smith, et al.,
AND
Patrick Mulvey, et al.,
Defendants.

MOTION FOR COURT ORDER

Now comes the pro se Plaintiff, Joseph P. Schmitt, and moves this Honorable Court for an order to the Defendants and/or their Counsel/employer to immediately return the evidence illegally censored, confiscated and subject of disciplinary action. Specifically Plaintiff's story/letter entitled A Week End In Paradise and Rain Dance. Also all envelopes such letters/stories were originally mailed with.

Plaintiff further moves that this Honorable Court order the Department of Correction to expunge Plaintiff's institutional Records of any and all mention of the two disciplinary reports he illegally received due to the above noted stories/letters.

Plaintiff further moves for an order that the department of correction provide a detailed listing of any and all agencies, persons or any others who were caused to receive a copy of the disciplinary reports and stories/letters.

Plaintiff further moves this Honorable Court to order the lower Court, Worcester Superior Court, specifically regarding Civil Action WOCV2002-01529-A, to expunge the above stories/letters from evidence being used against the plaintiff in it MGL 123A Civil Commitment Trial as said evidence is clearly illegal and must not be used to prosecute Plaintiff. For this portion of this motion, Plaintiff states that this Honorable Court has authority to take action as requested pursuant to 28-USCA-§2201, 28-USCA-§2202 and/or 28-USCA-§1651. This Honorable Court must not allow the lower court to prosecute Plaintiff using illegally obtained evidence, specifically the noted stories/letters above.

Dated: April 7, 2006

Respectfully Filed,

Joseph P. Schmitt
Joseph P. Schmitt, pro se
30 Administration Road
Bridgewater, Massachusetts
02324-3230

Joseph P. Schmitt
30 Administration Road
Bridgewater, Massachusetts
02324-3230

C. Raye Poole, Esq.
70 Franklin Street, Suite 600
Boston, Massachusetts
02110

April 10, 2006

Dear Ms. Poole:

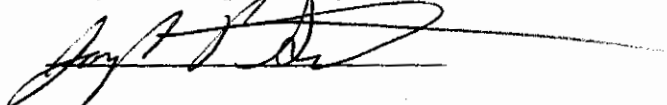
During the recent Jury Trial, 04-10451-RWZ/04-10717-RWZ you provided me with a photo copy of the letters/sexual stories in which both cases were based upon. I am now requesting that you forward those copies (or in the event you discarded those copies, new copies) to Derek Kolb at 1611 Gold SE, Apt.#5, Albuquerque, New Mexico, 87106. This gentleman is my friend and co-plaintiff in a recent action filed against a lot of your DOC clients. As the pro se counsel of Mr. Derek Kolb, I am instructing you to avoid any and all contact with him outside the above specific request.

If you require postage please inform me how much is required and I will have it forwarded to you asap. Of course you are aware that I recently received a verdict from a jury of my peers that awarded me several hundred dollars so I am sure you know full well I am good for the postage so I see no reason for any delay.

If you prefer Ms Poole, I would be happy to file a motion to the USDC for an ORDER to have you comply with my wishes. Feel free to let me know what you prefer.

Have a nice day. Thank you...

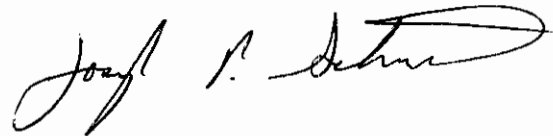
Respectfully Yours,

A handwritten signature in black ink, appearing to read "Joseph P. Schmitt", with a long horizontal line extending to the right.

CC: JPS,
DK.

Certificate Of Service

I, Joseph P. Schmitt, hereby certify that on October 10, 2006 a true copy of the above pleadings were served upon counsel of record via inter departmental mail, -

A handwritten signature in black ink, appearing to read "Joseph P. Schmitt". The signature is fluid and cursive, with a large, sweeping loop at the end.

Joseph P. Schmitt, pro se
30 Administration Road
Bridgewater, Ma. 02324